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LABOUR & E.S.I. DEPARTMENT

NOTIFICATION

The 26th February 2013

No. 1927—li/1(B)-36/2002-LESI.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 2nd November 2012 in Industrial Dispute Case No. 16 of 2004 of the Presiding Officer, Labour Court, Bhubaneswar to whom the industrial dispute between the Management of Odisha State Bureau of Text Book Preparation and Production, Bhubaneswar and their Workman Shri G. Chandrahasa Swamy was referred to for adjudication is hereby published as in the Schedule below :

SCHEDULE

IN THE LABOUR COURT, BHUBANESWAR

INDUSTRIAL DISPUTE CASE NO. 16 OF 2004

Dated the 2nd November 2012

Present :

S.A.K.Z. Ahamed,
Presiding Officer,
Labour Court, Bhubaneswar.

Between :

The Management of Odisha State
Bureau of Text Book Preparation
and Production, Bhubaneswar.

.. First Party—Management

And

Their Workman
Shri G. Chandrahasa Awamy

.. Second Party—Workman

Appearances :

Shri D. Mohanty, Advocate	.. For the First Party—Management
Shri S. Mishra, Advocate	} .. For Second Party —Workman
Mrs. N. Parhi, Advocate	
Shri S. S. Mohapatra, Advocate	

AWARD

The Government of Odisha in the Labour & Employment Department in exercise of powers conferred by upon them by sub-section (5) of Section 12, read with Clause (c) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 have referred the matter in dispute to this Court for adjudication vide Order No. 1237—li/1(B)-36/2002-LE., dated the 4th February 2004.

“Whether the dismissal of Shri G. Chandraswamy, Artist with effect from the 27th August 1999 by the management of Odisha State Bureau of Text Book Preparation and Production, Bhubaneswar is legal and/or justified ? If not, what benefits he is entitled to?”

2. In the statement of claim, the workman has stated that he joined as an Artist in the year 1973. During tenure of his service, by the order of the management on 1-12-1998, he was chargesheeted for misconduct, suppression of facts, disobedience of orders and was directed to submit explanation within three days. Accordingly, the workman submitted his explanation on 8-12-1998. In spite of the explanation submitted by the workman, the management on 17-2-1999 issued another chargesheet under Rule 15 of Odisha Civil Services (OCA) Rules, 1962 for the charges of misconduct, suppression of facts and false information and conviction in criminal case. The workman on the above charges, dated 17-2-1999 submitted his explanation, but the management without intimating the result of his explanation conducted an enquiry against him. He was dismissed from service with effect from 22-6-1999.

3. Further, the case of the workman is that on 24-6-1999 the management withdrew the order of dismissal against the workman passed on 22-6-1999 and on 29-6-1999, the management framed additional charges and directed the workman to submit his explanation and accordingly, the workman submitted his explanation on 17-7-1999, but without making any further enquiry, the workman was dismissed from service with effect from the 27th August 1999. The extreme punishment of dismissal from service is grossly disproportionate to the alleged charges. So, the order of dismissal from service is illegal and the workman should be reinstated in service with full back wages and cost.

4. On the other hand, the management filed written statement stating that the dismissal of the workman from service with effect from the 27th August 1999 is legal and justified. The management has admitted that the workman was initially appointed as an Artist in the year 1973. During the service period of the workman, he was involved in Kharvelanagar P.S. Case No. 307, dated 20-11-1986 under Section 498 (A) I.P.C. which was registered as G.R. case No. 2675/86. The workman in the said case was convicted by the trial Court under Section 498 (A) of I.P.C. and against the order of the conviction, he filed appeal which was confirmed by the Hon’ble High Court of Orissa and the Hon’ble Apex of India and accordingly, the workman undergone imprisonment for the prescribed

period and a fine of Rs. 500 was imposed against the workman. Since the workman was being found guilty in a criminal offence involved moral turpitude, he was dismissed from service under Clause 18)(1) of the Odisha Civil Service (OCA) Rules, 1962 by the competent authority after the matter was inquired from the Superintendent, Jail vide its Letter No. 5439, dated 30-11-1998 and that too after adopting the procedural formalities. Under the above circumstances, the prayer of the workman should be rejected.

4. In view of the above pleadings of both the parties, the following issues have been framed :—

ISSUES

(i) “Whether the dismissal of Shri G. Chandraswamy, Artist with effect from the 27th August 1999 by the management of Odisha State Bureau of Text Book Preparation and Production, Bhubaneswar is legal and/or justified ?

(ii) If not, what benefit he is entitled to ?

5. During trial, the workman himself has been examined from his side as W.W.1 and one witness has been examined from the management side. During the course of hearing, the workman has proved the documents such as, copy of the office order under memo No 1837(2), dated 2-12-1998, memo No. 183, dated 27-1-1999, Letter No. 1249, dated 6-7-1999 under the cover of Exts.1, 2 and 3, chargesheet dated 17-2-1999, explanation of the workman, dated 16-7-1999 and the order of dismissal vide Order No. 1576, dated 27-8-1999 under the cover of Exts.5, 10 and 11 besides other documents. Likewise, the management has proved a bunch of documents under the cover of Exts. A to V.

FINDINGS

6. *Issue Nos. (i) and (ii)*—Both the issues are taken up together for the sake of convenience.

Before going to discuss the evidence in details, it is pertinent to mention here that the workman while remained inside the jail custody with effect from the 29th August 1999, he took leave on the ground of illness. It is an admitted fact that the workman was convicted by the Hon’ble Apex Court of India. On the above score, the workman remained silent and not uttered a single word to that effect. The workman has admitted in his cross-examination that he was convicted in a criminal case and remained inside the jail custody during the tenure of his service and suppressed the fact by not giving the same in his affidavit evidence.

7. Law is well settled that the Hon’ble Apex Court refrained the Courts not to interfere with the administrative functions of the management and have held that the management who can take appropriate decision in the matter of its internal administration. The Court can entertain grievance of an employee only when it is shown that the management is contravened the principles of natural justice.

8. In the instance case, it is an admitted fact that the workman was convicted in a criminal case and he suppressed the same before the management. The allegation of *mala fide* intention of the management to the workman is heavily burden on him to prove the same in the facts and circumstances of this Case. But the workman has totally failed to do so. So, on perusal of the case record and other connecting papers and after going through the affidavit evidence of both the parties and on careful consideration of all the materials available in the case record as discussed above, in my opinion, the action taken by the management in dismissing the workman from service with effect from the 27th August 1999 is legal and justified. The workman is not entitled to any relief.

9. Hence, it is ordered :

That the dismissal of Shri G. Chandraswamy, Artist with effect from the 27th August 1999 by the management of Odisha State Bureau of Text Book Preparation and Production, Bhubaneswar is legal and justified. The workman Shri Swamy is not entitled to any relief.

The reference is answered accordingly.

Dictated and corrected by me.

S. A. K. Z. AHAMED
2-11-2012
Presiding Officer
Labour Court, Bhubaneswar

S. A. K. Z. AHAMED
2-11-2012
Presiding Officer
Labour Court, Bhubaneswar

By order of the Governor
J. DALANAYAK
Under-Secretary to Government